

# EXHIBIT A

**In the Matter Of:**

**UNITED STATES vs STATE OF GEORGIA**

1:16-CV-03088-ELR

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**FRANK BERRY**

*July 29, 2022*

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1 of care, continuum of care can be used across all  
2 disciplines, children, adults, individuals with  
3 intellectual and developmental disabilities.

4 Q What does it refer to?

5 A A continuum of care would be access to various  
6 resources that are available at any given time, and in  
7 my lens, the ebbs and flows of when a person may need  
8 access to them. So, best example is, let's say you  
9 come in for an assessment and you are in an acute  
10 critical crisis. You would access crisis services.

11 The continuum of care is what you ultimately  
12 may have access to throughout your course of treatment.  
13 It may be at times high-intensity, it may at times be  
14 lower-intensity. All of those make up the continuum of  
15 care.

16 Q And an individual would move in and out of  
17 those settings as appropriate?

18 A Right.

19 Q What were the settings offered on the  
20 continuum of care provided by DBHDD when you were  
21 Commissioner in the years 2012 to 2016?

22 A So very distinct population, so --

23 Q I am referring to individuals, to children and  
24 adolescents --

25 A Oh, children. So --

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1 Q -- DBB. I am sorry.

2 A So the Department did not deliver direct care.  
3 The Department contracted with community service boards  
4 and other providers to deliver the direct care who  
5 offered the continuum of care.

6 So, in the Department of Behavioral Health and  
7 Developmental Disabilities, was only very technically  
8 speaking responsible for uninsured children that didn't  
9 have any other coverage.

10 Q I am going to stop you right there.

11 A Okay.

12 Q So the Department was a link required to  
13 provide insurance for uninsured children who didn't  
14 have access to services, correct?

15 MR. BELINFANTE: I object to the form.

16 You can answer.

17 A They didn't provide insurance, they had a, the  
18 Department had a limited amount of funding that went to  
19 support uninsured children, because if you think  
20 about --

21 BY MS. COHEN:

22 Q That's all right.

23 A Okay.

24 Q I am mindful of our time.

25 A Okay.

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1 that population received adequate services?

2 A I did not. I did not look into it. Was it my  
3 responsibility? Yes.

4 Q It was within your responsibility?

5 A Yes.

6 Q And you alluded to the provision of insurance  
7 for treatment, to cover services provided to children  
8 with mental health diagnoses?

9 A Say that one more time.

10 Q Yes. I heard you to refer to the  
11 responsibility of different agencies with respect to  
12 this population.

13 A Yes.

14 Q Is what you were referring to that the  
15 responsibility to pay for services provided is divided  
16 among different agencies?

17 A Yes.

18 Q Such that DBHDD had responsibility for SSI  
19 recipients?

20 A No.

21 Q No?

22 A So I looked at it as uninsured children, DBHDD  
23 was the safety net for them, and we looked at it as  
24 before school and after school and on weekends. And  
25 the care management organizations for insured children

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1 were responsible for behavioral health, mental health  
2 care primarily before school, after school and on  
3 weekends for those insured, and during the day it was  
4 Education's responsibility to provide those services.  
5 That's how we looked at it as a State.

6 Q Understood. What you are referring to is  
7 paying for services?

8 A Yes.

9 Q And my question relates to determining what  
10 services shall be provided. Did the Department of  
11 Behavioral Health and Developmental Disabilities during  
12 your time as Commissioner have the responsibility to  
13 determine what behavioral health services should be  
14 provided?

15 A Yes, with the focus on before school and after  
16 school and on weekends, not during the school day.

17 Q So the Department of Behavioral Health and  
18 Developmental Disabilities had no responsibility during  
19 the years between 2012 and 2016 to provide treatment  
20 services during the entire day to individuals, children  
21 with behavioral and developmental disabilities?

22 MR. BELINFANTE: I object to the form.

23 You can answer.

24 A We did not believe that that was our  
25 responsibility, to be in the schools.

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1 A Yes.

2 Q Is the provider manual for DCH, does it have a  
3 similar purpose?

4 A Yes.

5 Q And it described the qualifications for  
6 providers?

7 A Yes.

8 Q And what certifications or licenses they  
9 needed?

10 A Yes.

11 Q One of the roles of DBHDD vis-a-vis the  
12 Medicaid program was determining what services would be  
13 provided under the Georgia State Medicaid program?

14 A Say that again.

15 Q Yes. It was the role of DBHDD in creating  
16 this provider manual to make a determination of what  
17 services would be provided for behavioral health?

18 A Yes, they coordinated with DCH on, here are  
19 the behavioral health services that we would like to  
20 have, I called it Medicaid-reimbursable, Medicaid-able,  
21 if you will.

22 Q You used the term "like." The provider manual  
23 actually established the requirements for which  
24 services were Medicaid-able, in your language, right?

25 A Say it one more time.

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1 Q Sure. The provider manual for DBHDD set forth  
2 the services that DBHDD had agreed to provide under the  
3 State Medicaid plan?

4 A Through its network of providers.

5 Q Yes.

6 A Yes.

7 Q And I think you just said that it collaborated  
8 with DCH to some extent on that on its manual?

9 A For Medicaid-reimbursable services, yes.

10 Q And through that collaboration, it was  
11 determined what Medicaid services under the Georgia  
12 State plan would be reimbursable by DCH?

13 A Yes.

14 Q And there were requirements for certification  
15 or licensing requirements under Georgia State law?

16 A Yes.

17 Q And that was one of your roles as  
18 Commissioner, to review the manual and the services  
19 offered and make sure that they were appropriate?

20 A It was the responsibility of our Medicaid team  
21 to make certain of that.

22 Q Under -- reporting to you?

23 A Yes, two layers below, but, yes.

24 Q So this Medicaid team would determine, their  
25 role was to determine what services were appropriate



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1 for reimbursement?

2 A The Medicaid team's role was to look at  
3 regulatory compliance and finance as it related to  
4 Medicaid services. So they, if a DBHDD needed a  
5 certain type of service that they thought would be  
6 helpful to treat people with significant, serious  
7 persistent mental illness, then DBHDD would usually  
8 present an evidence-based practice that had been  
9 approved by SAMHSA and then request that DCH get that  
10 in the State plan so that it could be reimbursed by  
11 Medicaid.

12 Q And the services that DBHDD requested were  
13 services in DBHDD's judgment that were necessary for  
14 successful behavioral services for this population?

15 A Yes.

16 Q And DBHDD also had the obligation to provide  
17 adequate behavioral health services to this population?

18 A Through its network of providers, yes.

19 Q And DBHDD determined what licensing and  
20 certification was necessary to, under Georgia law to  
21 perform the services?

22 A Yes.

23 Q This is why collaboration between DCH and  
24 DBHDD was necessary to create the APEX system; isn't  
25 that right?

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1 Do you see that?

2 A Yes.

3 Q Did that worry you as of 2015, that GNETS was  
4 the primary service provider rather than one of the  
5 CSBs?

6 A I don't recall reading that in 2015. I don't  
7 recall reading that, period, but that would cause me  
8 concern.

9 Q Is it important that mental health services  
10 are readily available to children across Georgia in  
11 their own communities as an alternative to GNETS?

12 A Yes.

13 Q What role does DBHDD have in working to ensure  
14 that mental health services are readily available to  
15 children across the State in their own communities?

16 A A limited role, because their funding supports  
17 uninsured children, so DBHDD plays a limited role, and  
18 the network of providers is responsible for the  
19 delivery who have contracts with the CMOs which are run  
20 through DCH.

21 Q I am a little confused. Which is the State  
22 agency that is responsible to ensure that mental health  
23 services are readily available to children across the  
24 State in their own communities?

25 A It is a combination, it is both DBHDD and DCH.